

Syllabus

IN THE MATTER OF
PHILIP JABLON, TRADING AS BELL YARN COMPANY
AND WONOCO YARN COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4326. Complaint, Oct. 2, 1940—Decision, Apr. 6, 1942

Where an individual, engaged in interstate sale and distribution of hand knitting yarn, to retail dealers and also direct to the purchasing public; on color cards containing samples of the various types and grades offered, distributed among prospective purchasers, and on labels and tags attached to the yarns themselves—

- (a) Made use of names (1) "Cashmere Sport" and "Imported Cashmere Blend," and (2) "Zephyr Tweed DeLuxe," "Mystic Tweed Crepe" and "Paisley Tweed" to describe certain of his products; notwithstanding the fact said yarns were, respectively, not made entirely from the hair of the cashmere goat, or composed entirely of wool as denoted by word "tweed," but said "Cashmere Sport" was composed wholly of other wool than cashmere, and "Cashmere Blend" contained substantial percentages of other materials; said "Paisley Tweed" was entirely rayon and the others, while composed principally of wool, contained substantial percentages of rayon;
- (b) Made use of word "wool" to designate certain of his yarns, as "Luster Wool" and "Wool Flake," and of word "Angora" and simulation thereof, "Angoray"; notwithstanding said "wool" yarns were not composed entirely of wool but contained large percentages of rayon, while neither of said "Angora" products contained hair of the Angora goat, but were composed entirely of other materials;
- (c) Made use of words "Luster Shetland" and "Shetland Floss," and "Genuine Camel Hair" to designate certain yarns; notwithstanding fact former yarns contained none of the wool—as understood by a substantial portion of the purchasing public—made from sheep grown on the Shetland Islands or on the contiguous mainland of Scotland; while others contained no Camel hair;
- (d) Made use of word "crepe" to designate certain products as "Pebble Crepe" and "Speckle Crepe"; notwithstanding fact said yarns were not, as long understood by public from such unqualified use of word "crepe," made entirely of silk, product of the cocoon of the silk worm, but were composed of a mixture of wool and rayon, or cotton and rayon, and contained no silk;
- (e) Made use of word "Saxony" to designate certain products; when neither yarns thus designated nor wool used therein were imported from the Province of Saxony, as implied;
- (f) Advertised and sold various yarns composed in whole or in part of rayon, but with appearance of wool or wool and silk without disclosing content of rayon which, when made to simulate silk or wool, is practically indistinguishable by purchasing public therefrom; with result that the public purchased such yarns as being entirely wool, or wool and silk; and

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(g) Represented that he was an importer and imported certain of his yarns, through use on his letterheads of the legend "Importers of D. M. C.—French—Angora—Wool—Cottons"; the facts being that while at one time he did import a limited amount of goods from foreign countries, since 1928 or 1929 he had obtained all of his products in the United States;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public, which prefers to deal direct with importers and purchase imported products, and to cause it to purchase substantial quantities of his products as a result:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Charles A. Vilas*, trial examiner.

Mr. Robert Mathis, Jr., and *Mr. L. E. Creel, Jr.*, for the Commission.

Mr. S. Robert Israel, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission having reason to believe that Philip Jablon, individually and trading as Bell Yarn Co. and as Wonoco Yarn Co., hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Philip Jablon is an individual trading as Bell Yarn Co. and as Wonoco Yarn Co., with his office and principal place of business located at 371 Grand St., in the city of New York, State of New York.

PAR. 2. Respondent is now and for more than 2 years last past has been engaged in the sale and distribution of various grades and types of knitting yarn. Respondent causes his said products, when sold, to be transported from his place of business in the State of New York to the purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained a course of trade in his said products in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his business, and for the purpose of inducing the purchase of his said products, the respondent has engaged in the practice of falsely representing the con-

stituent fiber or material of which his products are made, such false representations being made by means of statements and legends appearing in catalogs, sample books, display cards, price lists, and other printed and written material, and on tags and labels attached to such products.

Typical of the aforesaid practice is the use by the respondent of the words "Cashmere Sport" and "Imported Cashmere Blend" to designate and describe certain of his yarns which are not composed entirely of fiber made from the hair of the cashmere goat. The yarn designated "Cashmere Sport" does not contain any of such fiber but is composed entirely of other wool. The yarn designated "Imported Cashmere Blend," while containing some of such fiber, is composed principally of other wool or of a mixture of wool and other material.

The word "cashmere" has long been applied to a particular type of wool fiber which is made from the hair of the cashmere goat and which has for a long time been well and favorably known to the purchasing public. The word "cashmere," when used to designate or describe yarns having the general appearance of wool fibers, is understood by the purchasing public as denoting yarns composed entirely of fiber made from the hair of the cashmere goat.

A further example of respondent's practice is the use of the words "Sporting Angora" and "Angoray" to designate and describe yarns which are not composed of fiber made from the hair of the angora goat but are composed of fiber made from other wool.

The word "angora" has long been understood by the purchasing public as denoting fiber made entirely from the hair of the angora goat, and when such term or a simulation thereof is used to designate or describe a product having the appearance of wool fiber such term is understood by the purchasing public as denoting a product made entirely from the hair of the angora goat.

A further example of the respondent's practice is the use by respondent of the terms "Zephyr Tweed Deluxe" and "Bermuda Tweed" to designate and describe certain of its yarns which are not composed entirely of wool. The yarn designated "Zephyr Tweed Deluxe" is composed of equal parts of wool and rayon, and the yarn designated "Bermuda Tweed" contains no wool but is composed of a mixture of cotton and rayon.

The word "tweed" has for a long time been understood by the purchasing public as denoting a certain kind of fabric composed entirely of wool, and such fabric is well and favorably known to the purchasing public.

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A further example of the respondent's practice is the use of the term "Genuine Camel Hair" to designate and describe a yarn which in fact contains practically no camel hair but is composed almost entirely of other materials.

A further example of the respondent's practice is the use of the term "Luster Wool" to designate and describe a yarn which is not composed entirely of wool but is composed of approximately equal quantities of wool and rayon.

PAR. 4. Another and typical act and practice on the part of the respondent is that of falsely representing that certain of his yarns are composed of silk or of a mixture of silk and wool, when such is not the fact. Among such representations are the legends "Crepe Velnette," and "Mystic Tweed Crepe," which are used by the respondent to designate and describe certain yarns which do not in fact contain any silk but are composed of a mixture of wool and rayon.

The word "silk" has had for many years and still has in the mind of the purchasing public a definite and specific meaning, to wit, the product of the cocoon of the silk worm. Silk products for many years have held and still hold the confidence and esteem of the public for their preeminent qualities. Silk fiber has long been woven into a variety of fabrics, and certain distinctive terms have been applied to the fabrics resulting from the different types of weaving of silk fiber. Among such terms is the term "crepe." Products described and referred to as "crepe" have been and are associated in the mind of the purchasing public with fabrics made from silk, the product of the cocoon of the silk worm. When the term "crepe" is used to designate knitting yarns, such term is understood by the purchasing public as denoting that such products are made from silk.

Rayon is a chemically manufactured fiber or fabric which may be so manufactured as to simulate silk or wool. When manufactured to simulate silk it has the appearance and feel of silk, and when manufactured to simulate wool it has the appearance of wool. By reason of these qualities, rayon, when manufactured to simulate silk or wool and not designated as rayon, is by the purchasing public practically indistinguishable from silk or wool, as the case may be. Products made of rayon are accepted by the purchasing public as silk or wool, even though such products may not be designated by terms representing or implying that they are silk or wool.

The respondent also sells and distributes other types of yarn containing rayon, without disclosing the rayon content of such products. Among such products are the yarns hereinbefore referred to as "Zephyr Tweed Deluxe," "Bermuda Tweed" and "Luster Wool", and certain other yarns designated by the respondents as "Pompadour Zephyr"

and "Snow Flake." All of said yarns contain substantial percentages of rayon which has been manufactured so as to simulate wool or a mixture of silk and wool, and said products have the appearance of wool or a mixture of silk and wool and are understood and accepted by the purchasing public as such.

PAR. 5. The respondent also engages in the practice of falsely representing the place of origin of certain of his products. Among and typical of such false representations are the legends "Scotch Tweed," "Luster Shetland," "Bermuda Tweed," "French Zephyr" and "Imported Cashmere Blend," which the respondent uses to designate various yarns. Through the use of such legends the respondent represents that the yarn designated "Scotch Tweed" is made in Scotland; that the yarn designated "Luster Shetland" is made in the Shetland Islands; that the yarn designated "Bermuda Tweed" is made in Bermuda; that the yarn designated "French Zephyr" is made in France; and that the yarn designated "Imported Cashmere Blend" is not of domestic origin but is imported into the United States from some other country. In truth and in fact, none of said yarns are made in or imported from other countries but all of them are manufactured in the United States.

PAR. 6. The respondent also represents, through the use of the legend "Importers of D. M. C.—French—Angora—Wool—Cottons" in connection with his trade names, that he is an importer, when in fact respondent is not an importer but obtains all of his products from manufacturers or dealers in the United States.

There is a preference on the part of a substantial portion of the purchasing public for dealing direct with importers of yarns and for purchasing imported yarns, such preference being based in part upon a belief that thereby superior quality and other advantages may be obtained.

PAR. 7. The acts and practices of the respondent as herein set forth, including the failure to disclose that respondent's products contain rayon, have the tendency and capacity to, and do, mislead and deceive a substantial portion of the purchasing public with respect to the constituent fibers or materials of which respondent's products are made, the place of origin of such products, and respondent's business status. As a result, the purchasing public has been induced to, and has, purchased substantial quantities of respondent's products.

PAR. 8. The aforesaid acts and practices of the respondent as herein alleged are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on October 2, 1940, issued and subsequently served its complaint in this proceeding upon the respondent, Philip Jablon, an individual trading as Bell Yarn Co. and as Wonoco Yarn Co., charging him with the use of unfair and deceptive acts and practices in commerce, in violation of the provisions of said act. After the issuance of the complaint and the filing of respondent's answer thereto, testimony and other evidence in support of the allegations of the complaint were introduced by attorneys for the Commission, and in opposition to the allegations of the complaint by the attorney for the respondent, before Charles A. Vilas, a trial examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, the answer thereto, testimony, and other evidence, report of the trial examiner upon the evidence and the exceptions to such report, and briefs in support of and in opposition to the complaint (oral argument not having been requested); and the Commission, having duly considered the matter, and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, Philip Jablon, is an individual trading as Bell Yarn Co. and as Wonoco Yarn Co., with his office and principal place of business at 371 Grand Street, New York City, N. Y. Respondent is now, and for more than four years last past has been, engaged in the sale and distribution of various grades and types of hand-knitting yarn. Respondent sells his products at wholesale to retail dealers who in turn resell such products to the public, and respondent also sells direct to the purchasing public by means of orders obtained and filled through the mail.

PAR. 2. Respondent causes and has caused his products, when sold, to be transported from his place of business in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in his products in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his business and for the purpose of promoting the sale of his products, respondent distributes among prospective purchasers certain advertising material known as color cards, which contain samples of the various types and grades of yarn offered for sale by respondent. The various yarns are designated and described in such color cards by certain names, and these names are also used by respondent on labels and tags attached by respondent to the yarns and which remain on the yarns until after they are displayed and sold to the public.

Among the names which have been used by the respondent to designate and describe certain of his yarns are "Cashmere Sport" and "Imported Cashmere Blend." The word "cashmere" when applied to wool products, has long been understood by a substantial portion of the purchasing public as denoting that the product so designated is made from the hair of the cashmere goat. The yarn designated by respondent as "Cashmere Sport" did not in fact contain any hair of the cashmere goat but was composed wholly of other wool. The yarn designated by respondent as "Imported Cashmere Blend" was not made entirely of the hair of the cashmere goat, but contained substantial percentages of other materials as well.

Other names used by respondent to designate certain of his yarns are "Zephyr Tweed Deluxe," "Mystic Tweed Crepe," and "Paisley Tweed." The word "tweed" has long been understood by a substantial portion of the purchasing public as denoting products composed entirely of wool. The yarn designated by respondent as "Paisley Tweed" does not in fact contain any wool but is composed entirely of rayon. The yarns designated by respondent as "Mystic Tweed Crepe" and "Zephyr Tweed Deluxe," while composed principally of wool, contain substantial percentages of rayon.

Respondent also uses the word "wool" to designate certain of his yarns as "Luster Wool" and "Wool Flake," thus representing that such yarns are composed entirely of wool. The yarns so designated are not in fact composed wholly of wool but both of such yarns contain large percentages of rayon.

Respondent has also used the word "Angora" and a simulation thereof, "Angoray," to designate certain of his yarns. The word angora has long been understood by the purchasing public as denoting products made from the hair of the angora goat. Neither of the yarns so designated by respondent contains any hair of the angora goat, but both of such yarns are composed entirely of other materials.

Respondent also uses the word "shetland" to designate certain of his yarns, as "Luster Shetland" and "Shetland Floss." The word

shetland, when applied to knitting yarns, is understood by a substantial portion of the purchasing public as denoting yarns made of wool from shetland sheep grown on the Shetland Islands or on the contiguous mainland of Scotland. The yarns so designated by respondent do not in fact contain any of such wool. Respondent also represents, through the use of the words "Genuine Camel Hair" to designate certain of his yarns, that such yarns are composed entirely of camel hair. The yarns so designated do not in fact contain any camel hair but are composed entirely of other wool.

Respondent also uses the word "crepe" to designate certain of his yarns, as "Pebble Crepe" and "Speckle Crepe." The unqualified word "crepe" has long been understood by a substantial portion of the purchasing public as denoting products made entirely of silk, the product of the cocoon of the silk worm. Neither of the yarns so designated by respondent contains any silk, but such yarns are composed of a mixture of wool and rayon or cotton and rayon.

Respondent also uses the word "Saxony" to designate certain of his yarns. To a substantial portion of the purchasing public the word saxony, when so used, denotes that such yarns, or the wool composing them, is imported from the Province of Saxony. In fact neither the yarns so designated by the respondent nor the wool used therein is imported from Saxony.

Respondent has also engaged in the practice of advertising and selling various yarns composed in whole or in part of rayon, without disclosing such rayon content. Rayon is a chemically manufactured fiber or fabric which may be so manufactured as to simulate silk or wool. When manufactured to simulate silk, it has the appearance and feel of silk, and when manufactured to simulate wool, it has the appearance of wool. By reason of these qualities, rayon, when manufactured to simulate silk or wool and not designated as rayon is practically indistinguishable by the purchasing public from silk or wool, as the case may be. Respondent's yarns have the appearance of wool or of wool and silk, and the failure of respondent to disclose the rayon content of such yarns has resulted in the purchase of such yarns by a substantial portion of the public under the erroneous impression that they were composed entirely of wool or of wool and silk.

PAR. 4. Respondent also represents, through the use on his letterheads of the legend "Importers of D. M. C.—French—Angora—Wool—Cottons," that he is an importer and that he imports certain of the yarns sold by him. While respondent did at one time import a limited amount of goods from foreign countries, he has not imported any goods since 1928 or 1929. Since that time he has obtained all of his products from manufacturers or dealers in the United

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States. There is a preference on the part of a substantial portion of the purchasing public for dealing direct with importers and for purchasing imported products.

PAR. 5. The Commission finds further that the acts and practices of the respondent as herein described have the tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the nature, character, and origin of respondent's products, and with respect to respondent's business status, and the tendency and capacity to cause such portion of the public to purchase substantial quantities of respondent's products as a result of the erroneous beliefs so engendered.

CONCLUSION

The acts and practices of the respondent as herein found are all to the prejudice of the public, and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, testimony and other evidence taken before Charles A. Vilas, a trial examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, report of the trial examiner upon the evidence and the exceptions to such report, and briefs in support of and in opposition to the complaint (oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Philip Jablon, individually and trading as Bell Yarn Co. and as Wonoco Yarn Co., or trading under any other name, and his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of his knitting yarns in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the word "cashmere," or any other word of similar import to designate or describe any product which is not composed entirely of the hair of the cashmere goat: *Provided, however*, That in the case of a product composed in part of the hair of the cashmere goat and in part of other fibers or materials, such word may be used as descrip-

tive of the cashmere fiber content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing such other constituent fibers or materials.

2. Using the words "wool" or "tweed," or any other word indicative of wool, to designate or describe any product which is not composed entirely of wool; provided, however, that in the case of a product composed in part of wool and in part of other fibers or materials, such words may be used as descriptive of the wool content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing such other constituent fibers or materials.

3. Using the words "angora" or "angoray," or any other word of similar import, to designate or describe any product which is not composed entirely of the hair of the angora goat; provided, however, that in the case of a product composed in part of the hair of the angora goat and in part of other fibers or materials, such word may be used as descriptive of the angora fiber content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing such other constituent fibers or materials.

4. Using the word "shetland," or any other word of similar import, to designate or describe any product which is not made from the wool of shetland sheep grown on the Shetland Islands or the contiguous mainland of Scotland; provided, however, that in the case of a product composed in part of such wool and in part of other fibers or materials, such word may be used as descriptive of the Shetland wool content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing such other constituent fibers or materials.

5. Using the words "camel hair," or any other words of similar import, to designate or describe any product which is not composed entirely of camel hair; provided, however, that in the case of a product composed in part of camel hair and in part of other fibers or materials, such words may be used as descriptive of the camel hair content if there are used in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words truthfully describing such other constituent fibers or materials.

6. Using the unqualified word "crepe," or any other descriptive term indicative of silk, to designate or describe any product which is not composed entirely of silk, the product of the cocoon of the silk worm; provided, however, that such word or descriptive term may

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be used truthfully to designate or describe the type of weave, construction, or finish, if such word is qualified by using in immediate connection or conjunction therewith, in letters of at least equal size and conspicuousness, words clearly and accurately naming the fibers or materials from which such product is made.

7. Using the word "saxony" to designate or describe any product which is not imported from the Province of Saxony or made of materials imported from the Province of Saxony.

8. Advertising, offering for sale, or selling products composed in whole or in part of rayon without clearly disclosing such rayon content, and when such products are composed in part of rayon and in part of other fibers or materials, all of such fibers or materials, including the rayon, shall be clearly and accurately disclosed.

9. Using the word "importers," or any other word of similar import, to designate or describe respondent's business, or otherwise representing that respondent is an importer.

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

It is further ordered, That no provision in this order shall be construed as relieving respondent in any respect of the necessity of complying with the requirements of the Wool Products Labeling Act of 1939 and the authorized rules and regulations thereunder.

IN THE MATTER OF

UNITED STATES RAW SKINS CORPORATION AND LIEBERSON NOVELTY COMPANY, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4469. Complaint, Feb. 27, 1941—Decision, Apr. 9, 1942

Where a corporation, engaged in the interstate sale and distribution of domestic and imported leathers—

- (a) Represented that lambskin, sheepskin, or calfskin sueded and finished so as to simulate antelope skin was such, through use of description "Black French Antelope Suede" in its invoices to a concern manufacturing women's handbags, belts and other leather goods; and

Where said corporate purchaser—

- (b) Represented that the handbags made from such leather and offered for sale by it were made of antelope skin, through advertising in periodicals and trade journals "Newest French Antelope Suede Bags * * *," "Genuine French Antelope Suede Bag * * *," and "Illustrated are four of many of our attractive numbers in French Antelope Suede";

The facts being that while term "Antelope Suede" is understood by importers, tanners, and manufacturers of leather goods as denoting lambskin, sheepskin, or other leathers sueded and finished to resemble the very rare and expensive antelope skin rather than as denoting the genuine skin itself, a substantial portion of the purchasing public understands unqualified word "antelope," thus applied, to mean that the articles are made of genuine antelope skin, and understands "antelope suede" to mean such skin thus finished, and there is a preference on its part for leather goods made of genuine antelope skin over those made of other leathers sueded and processed so as to resemble antelope;

With the result that corporation first referred to, through describing and invoicing its products as above set forth, initiated, contributed to, and, in effect, participated in, the subsequent misrepresentations made by latter purchaser-concern, and with tendency and capacity, through aforesaid acts and practices of both corporations, to mislead and deceive a substantial portion of the purchasing public into the mistaken belief that the products in question were made of genuine antelope skin and to cause it, as a result, to purchase substantial quantities of such products:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. Andrew B. Duvall*, trial examiner.

Mr. B. G. Wilson for the Commission.

Mr. Norman J. Steinberg, of New York City, for United States Raw Skins Corp.

Mr. Marshall Solberg, of Chicago, Ill., for Lieberman Novelty Co., Inc.